

REPORT
OF THE COMMITTEE
ON
THE BILL
FROM
THE HOUSE OF REPRESENTATIVES,
FOR THE RELIEF
OF WILLIAM WHITE
AND
OTHERS.

See 41

JANUARY 30th, 1809.
PRINTED BY ORDER OF THE SENATE.

WASHINGTON CITY;
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.....
1809.

REPORT

OF THE

COMMISSIONERS OF THE

LAND OFFICE

FOR THE YEAR 1881

IN RESPONSE TO A RESOLUTION

PASSED BY THE HOUSE OF REPRESENTATIVES

ON JANUARY 10, 1881

AND BY THE SENATE

ON FEBRUARY 10, 1881

WASHINGTON: GOVERNMENT PRINTING OFFICE

IN SENATE
OF THE UNITED STATES.

January 30th, 1809.

MR. MITCHILL, from the committee to whom was referred the bill from the House of Representatives, "for the relief of William White, and others," made the following

REPORT :

THAT from the papers and documents accompanying said bill, it appears that the said William White and nine other inhabitants of Knox county, in the state of Kentucky, have petitioned Congress, for the amount of damages they have suffered, in being unjustly turned off their farms on Yellow creek, between the ford on Cumberland river, and Cumberland mountain, as intruders on Indian lands, by the military force under the orders of government, in the year 1801; and state in their petition, that previous to their settlement "*they ascertained the Indian boundary line, from the point of*

Campbell's line, on Cumberland mountain, to the ford of Cumberland river," and actually settled on the United States' side of the line: the sufferings of the petitioners on the one side, the justice and character of the government on the other, have induced the committee to make a thorough examination, whether they were or were not removed, agreeably to the justice and laws of their country; that they were removed there is no doubt. As Campbell's line is an important boundary, in the present case, and in several treaties made with the Indians, the committee have endeavored to ascertain the particulars in relation thereto.

It appears that a treaty was held with the Cherokee Indians, by commissioners on the part of Virginia and North Carolina, as early as the year 1777, at which treaty were present most of the chiefs and warriors of the Cherokee nation, and the boundary commonly called Campbell's line, was then and there agreed upon by all parties; and in the year following, 1778, the line was actually run by one Campbell agreeably to the treaty; at the running of which, it is presumed the Indians were present. This line run west 20 degrees north, and was extended to Cumberland mountain to the top of that part which is now called Double mountain, at a point on which it seems to be well establish-

ed, the line terminated ; it is also certain that a straight line drawn from the point where Campbell's line terminated, on the Cumberland mountain, to the ford of Cumberland river, would leave the settlements made by the petitioners, something short of a mile on the Indian side of the line ; but as the line from Campbell's point to the ford of Cumberland river runs nearly north, by extending the former line on the same course, from the point where Campbell's line terminated, two hundred and ninety rods, to another point on Cumberland mountain, and running from that point to the ford on Cumberland river, would leave the petitioners' settlements on the United States' side of the line : this led the committee to examine the treaties and laws of the United States to ascertain whether Campbell's line had by the government, or the consent of the Indians been extended beyond the point where Campbell terminated the same, or that part of Cumberland mountain called Double mountain : they are compelled to say they find nothing in either the treaties or laws that could justify extending Campbell's line, against the Indians.— The treaty of Hopewell, made with the Cherokee nation, by Benjamin Hawkins, and others, commissioners of the United States, on the 28th of November, 1785, describes this part of the boundary line. between the

United States and the said Indian nation, as follows* "*thence along the said line to the river, (meaning Cumberland river) thence up the said river to the ford where the Kentucky road crosses the river, thence to Campbell's line, near Cumberland gap.*" In the treaty of Holston, made by *William Blount* on the 2d day of July, 1791, with the same Cherokee nation, the boundary line is thus described,† "*thence up the river Clinch, to Campbell's line and along the same to the top of Cumberland mountain, thence a direct line to the Cumberland river, where the Kentucky road crosses it.*" The treaty of Holston, in respect to this particular line, appears to be a confirmation of the same line, described by the treaty of Hopewell, only turning the same from an opposite point; nor can it be presumed from the words in the treaty of Holston, to wit: "*along Campbell's line to the top of Cumberland mountain,*" that it was the understanding of either of the contracting parties, that the line should be extended to any other top of Cumberland mountain, than the one where Campbell's line terminated.

By the 2d article of the treaty made with the same nation of Indians at Philadelphia, on the 26th day of June, 1794, it was expressly stipulated‡ "*that the boundaries*

* United States' Laws, vol. 2, p. 344.

† Id. p. 427.

‡ Id. p. 433.

mentioned in the treaty of *Holston*, should be actually ascertained and marked, in the manner prescribed by said treaty of *Holston*, whenever the Cherokee nation should have ninety days notice of the time and place at which the commissioners of the United States intended to commence their operation;" which said boundaries, as mentioned and described in the treaty of *Holston*, were actually ascertained, and marked, the latter part of the year 1797,* under the direction of the same Benjamin Hawkins, one of the commissioners at the treaty of *Hopewell*, in which the particular line now in contest was run from the point of Campbell's line, where it terminated on that part of Cumberland mountain, now called Double mountain, in a straight course to the ford of Cumberland river, which left the petitioners something short of one mile on the Indian side of the line.

By the third article of the treaty made by Thomas Butler and George Walton, commissioners of the United States with the same Cherokee nation, near Tellico, October 2d, 1798, the line that had been thus ascertained and marked the preceding year, by the commissioner of the United States and the Indians, was ratified and confirmed.† In further confirmation of which line, Congress did

* United States' Laws, vol. 4, p. 555, 556.

† United States' Laws, vol. 4, page 557.

on the 3d day of March, 1799, pass an act in which they establish the Indian boundary, and describe this particular line in the following words—" *thence north-east to Cumberland river, thence up the said river to where the Kentucky road crosses the same, thence to the Cumberland mountain at the point of Campbell's line.*"* And in the same act, the President of the United States is authorised to employ such military force as he may judge necessary, to remove from lands belonging, or secured by treaty, to any Indian tribe, any such citizen or other person who had then made, or should thereafter make, or attempt to make, a settlement thereon. And by force of the same act the petitioners were removed from their settlements on the Indian lands, in the year 1801. There can be no doubt of their settlements being on the Indian side of the line, established in the act aforesaid; and as little doubt can be entertained, that the act established the line agreeably to the true intent and meaning of the then existing treaties between the United States and the Cherokee nation.

On the ground alledged by the petitioners, that they took all reasonable precaution to ascertain the true line, before they commenced their settlement, it is to be remarked, that they state in their petition, that "*they*

* United States' Laws, vol. 4, page 528.

ascertained the tract of the said boundary line, from the point of Campbell's line on Cumberland mountain, to the ford of Cumberland river:" had they done this they could not have been removed; but instead thereof, at their own risk and hazard, as appeared by the evidence before the committee, they extended the course of Campbell's line, from the point where it terminated on one top of Cumberland mountain, 290 rods, to another top of Cumberland mountain, and from thence to the ford of Cumberland river. The committee can perceive no injustice exercised by government against these petitioners, nor can their case very materially differ from hundreds, if not thousands, that have been removed from Indian lands under the authority of the United States.

The committee further observe, that from the report made to the secretary of war by Return J. Meigs, and referred to in the *bill*, it is doubtful whether the estimation therein made, included only their claims for damages, in being turned off from their settlements, or the value of their property or *little farms*, the sum is more than sixteen hundred dollars; it is presumed the interest of the United States would not be advanced in purchasing small tracts of land among the cliffs of those mountains, and where no legal title has been shown in the claimants: most of the petitioners settled there for the purpose of keep-

ing houses of entertainment, and probably selling liquor, so detrimental to the Indians, which might have been a principal ground of complaint, and the cause of their being removed. No reason has been assigned why Thompson Nichols is inserted in the bill, when it does not appear that he ever petitioned for any compensation. Upon the whole, the committee report no amendments to the *bill*, but submit the same to the Senate to be determined on its merits.

